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IN THE HIGH COURT OF JUDICATURE: AT JABALPUR

W.P.NO. 5343 /1999

PETITIONER : Krishna Kant Tiwari, S/o late Shri Prem Ram Tiwari, Primary Teacher, KENDRIYA VIDYALAYA B.C.P.P., Jamnipali Korba, Distt- KORBA

-Versus-

RESPONDENTS :

1. KENDRIYA VIDYALAYA SANGATHAN, 18, Institutional Area, Shaheed Jeetsingh Marg, New-Delhi-16 through- it's Chairman.

2. Asstt.Commissioner, KENDRIYA VIDYALAYA SANGATHAN/Administrative Officer, Kendriya Vidyalaya Sangathan Regional Office, G.C.F., Jabalpur.

PETITION UNDER ARTICLE-226/227 CONSTITUTION OF INDIA:

HIGH COURT OF JUDICATURE AT BILASPUR: CHHATTISGARH

DIVISION BENCH

CORAM: **HON'BLE SHRI H.L. DATTU, CJ &**
HON'BLE SHRI V.K. SHRIVASTAVA, J.

Writ Petition No.5343 of 1999

PETITIONER Krishna Kant Tiwari

VERSUS

RESPONDENTS Kendriya Vidyalaya Sangathan and another.

Present: Shri Anil Kumar Pandey, counsel for the petitioner.
Shri A.S. Gaharwar, counsel for the respondents.

ORAL ORDER

(Passed on 26th February, 2007)

The following oral order of the Court was passed by H.L. Dattu, CJ.

Primary School teacher is the writ petitioner in this petition filed under Article 226 of the Constitution of India. The grievance made out in this petition is in regard to the orders passed by the Central Administrative Tribunal, Jabalpur Bench, Jabalpur in O.A. No. 341 of 1999. Admittedly, he joined as primary school teacher in Kendriya Vidyalaya Sangathan, New Delhi on 23-09-1987. Initially he was a probationer. Thereafter his employer confirmed his appointment.

(2) The petitioner had approached the respondents to fix his pay-scale in accordance with the official memorandum issued by the Government of India, Department of Personnel and Training on 07-08-1989. The same was rejected by the employer. Aggrieved by that order, he was before the Central Administrative Tribunal.

(3) In the official memorandum issued by the Government of India dated 07-08-1989, it is made clear that the official memorandum would be applicable to such employees who joined service on or after 07-08-1989. In the present case, the petitioner had joined his service as a Central Government Employee much prior to the cut off date stated in the official memorandum dated 07-08-1989.

(4) At the time of hearing of the petition, learned counsel for the petitioner would submit that the cut off date envisaged in the official memorandum is in violation of the equality of principles and therefore is in violation of Article 14 of the Constitution.

(5) First and foremost, the petitioner has not questioned the virus of the official memorandum issued by the Central Government dated 07-08-1989. Without challenging the notification, the petitioner cannot be permitted to argue that the cut off date envisaged in the official memorandum is in violation of Article 14 of the Constitution.

(6) Keeping the date of entry of the petitioner into service and the date of official memorandum which was in existence, in our opinion, rightly the Central Administrative Tribunal has rejected the request of the petitioner for fixation of his pay scale in the light of the official memorandum issued by the Central Government dated 07-08-1989, we do not find any error in the order passed by the Central Administrative Tribunal. Accordingly, writ petition requires to be rejected and it is rejected. Ordered accordingly.

Sd/-
Chief Justice

Sd/-
V.K. Shrivatava
Judge